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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/692,312	10/20/2000	Tadashi Ono	33216M059	5746

7590 04/21/2004

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Washington, DC 20036

EXAMINER

DUGGINS, ALICIA M

ART UNIT	PAPER NUMBER
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2613

DATE MAILED: 04/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/692,312

Applicant(s)

ONO ET AL.

Examiner

Alicia M Duggins

Art Unit

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 1/20/04.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All   b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

Art Unit: 2613

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-13 are rejected under 35 U.S.C. 102(e) as being anticipated by

Hirata(US60521242)

Regarding claims 1 and 13 Hirata shows a

A data recording apparatus that records data in a file having a predetermined volume

(1) in fig. 1 comprising:

Size detecting means 121 in fig.1 for deciding when data is sequentially recorded in a file, whether the next unit of data to be recorded can be fully recorded in the same file or not (col.3 ll.24-32)

File creation controlling means in fig. 3 for recording next data to be recorded in another file or stopping recording if the case where the result of the decision by the size detecting means shows recording is not possible (col.3 ll.35- col.4 ll.1-12)

File writing means 114 shown in fig. 1 for writing data in a file according to the control from the file creation controlling means

Regarding claims 2,7 and 10 a data recording apparatus comprising;

Detecting means in fig. 1 for detecting a change of a property attached to the data  
(abstract II. 6-12)

Fig. 1 shows file recording controlling means (121) for recording data on a plurality of files or stopping recording according to a change in property

Regarding claims 3,8 and 11 a data recording apparatus wherein the property is image mode information (col.2 II.28-31)

File recording controlling means records data by switching to another file as a file in which said data is to be recorded or stops recording when the content of said image mode information changes (col.3 II. 63-col.4 II.1-3)

Regarding claims 4, 9, and 12 a data recording apparatus where the property is voice mode information (col.2 II. 28-31)

Art Unit: 2613

File recording controlling means records data by switching to another file as a file in which said data is to be recorded or stops recording when the content of said voice mode information changes (col.3 ll. 63-col.4 ll.1-3)

Regarding claim 5 a data recording apparatus wherein the property is copyright information (abstract ll. 1-5)

File recording controlling means records data by switching to another file as a file in which said data is to be recorded or stops recording when the content of said copyright information changes (col.3 ll. 63-col.4 ll.1-3)

Regarding claim 6, Hirata shows a data recording apparatus wherein said copyright information means at least COPY FREE, COPY ONCE or COPY NEVER or COPY NO MORE of said data and in the case of COPY ONCE the copyright information is rewritten as a prohibition of reproduction before data recording (col.3 table 1)

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2613

Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirata(US6052242) in view of Itoh(US6700989)

Regarding claims 14 and 15, Although Hirata shows as recording apparatus as mentioned in the applicant's invention, he does not show a medium carrying a program/ data to make a computer execute some of the functions of the data recording apparatus and an information package that is the program/data to make the computer execute the functions of the data recording apparatus which is shown by Itoh in fig.34 (col.36 ll.15-20). It would have been obvious to one of skill in the art to have a medium carrying a program/ data to make a computer execute some of the functions of the data recording apparatus and an information package that is the program/data to make the computer execute the functions of the data recording apparatus to make the invention portable and more accessible to users of the apparatus.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Park (USRE37052)

Hirai (US20010019659)

Kimura (US6434322)


Art Unit: 2613

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M Duggins whose telephone number is (703)305-5621. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (703)305-4856. The fax phone number for the organization where this application or proceeding is assigned is (703)308-5391.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

AMD  
4/14/04

  
CHRIS KELLEY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800